

**MINUTES OF THE JUNE 2007 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, June 11, 2007, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Michael Connolly, Chair, and Representative Philip Wise, Vice Chair; Senators Jeff Angelo, John P. Kibbie, and James Seymour; Representatives Marcella Frevert, David Jacoby, and Linda Upmeyer. Senator Thomas Courtney and Representative David Heaton were not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Deborah Svec-Carstens, associate counsel in the office of the Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened Sen. Connolly convened the meeting at 9:10 a.m.
- Fiscal report** Ron Robinson presented the LSA fiscal report on four rule makings that have a significant fiscal impact: (EPC) ARC 5898B; (DHS) ARC 5911B and amendments to be adopted regarding child welfare service provider rates; and (IPERS) ARC 5894B.
- REGENTS BOARD** Diana Gonzalez represented the board.
- ARC 5893B Ms. Gonzalez used a slide presentation to explain the criteria for admission of undergraduate students directly from high school, the regents admission index (RAI), which involves four factors: the student's ACT composite score (x 2), the student's rank in class (x 1), the student's grade point average (x 20) and the number of core courses taken by the student in high school (x 5). Ms. Gonzalez indicated that the RAI will be implemented for the fall of 2009 admissions, and that a student whose RAI is 245 or above will be automatically admitted to the state universities. A review of the RAI will begin the first year after its implementation and will continue every two years thereafter. Rep. Upmeyer was assured that these criteria will not be applicable to nontraditional students for whom an individual review will remain available. Ms. Gonzalez reported that the board has worked closely with the department of education and that response from schools has been very favorable.
- SOIL CONSERVATION DIVISION** Margaret Thomson and Kenneth Tow represented the division.
- ARC 5907B No questions on proposed amendments to ch 10, financial incentive program for soil erosion control.
- ARC 5908B No action on proposed amendments to ch 12 concerning the water protection fund.
- REVENUE DEPARTMENT** Jim McNulty, Ed Henderson and Dick Stradley represented the department.
- ARC 5909B No questions on proposed amendments that relate to income tax relief for the elderly, including an increase in filing thresholds, alternate tax calculations, and phase-out of tax on social security benefits.
- ARC 5910B Amendments to ch 71 pertain to property assessment appeals. Mr. Henderson summarized changes from the notice. Mr. Stradley commented that some appeals have been received and, because the deadline for filing an appeal was extended in disaster areas, additional appeals are expected.
Sen. Connolly asked that the board provide the committee a written review after one year.
- CORRECTIONS DEPARTMENT** Michael Savala represented the department.
- ARC 5863B No questions on amendments to ch 1 to correct the department's address and update the table of organization.
- ARC 5864B No action on amendments to ch 20 pertaining to visits to offenders. Mr. Savala reported that the visitor application process has been centralized through the Mt. Pleasant correctional facility and the banking system has been centralized through the Ft. Dodge correctional facility. These amendments expand the list of visitors, but also restrict visitation by minors to sex offenders. Mr. Savala advised Sen. Kibbie that each correctional facility allows visiting for a minimum of four hours per day, four days per week.
- IOWA FINANCE AUTHORITY** Mark Thompson represented the authority.
- ARC 5891B No questions on proposed 19.1 and 19.2 regarding the state housing trust fund.
- LABOR SERVICES DIVISION** Kathleen Uehling represented the division.
- ARC 5861B No questions on three amendments to conform the rules to statute.
- ARC 5860B No questions on the rescission of ch 27 concerning protective clothing and equipment for firefighters; OSHA standards will govern.
- ARC 5852B No action on proposed amendment of ch 91 regarding galvanic action and adoption of a new ch 95 concerning water heaters. Ms. Uehling confirmed that the scope of the new ch 95 is consistent with the current rules.
- ARC 5859B No questions regarding amendments to ch 215 to implement the minimum wage and initial employment wage increases.

Labor Services Division (continued)

ARC 5884B No questions on proposed additional amendments to chs 215 and 216 regarding the minimum wage and initial employment wage.

PUBLIC SAFETY DEPARTMENT Sam Knowles, Mike Coveyou, Jim Kenkel and Gary Licht represented the department. Other interested parties included Mike Treinen, on behalf of Mr. James Kasper of rural Cedar County, and Susan Cameron, on behalf of the Iowa State Sheriffs and Deputies Association.

ARC 5856B Amendments to ch 4 and new ch 91 pertain to weapons permits. Mr. Knowles explained that these rules will allow an active duty military person stationed in Iowa but with identification from another state, out-of-state students attending college in Iowa, and workers who are in Iowa part of the year to be able to acquire a handgun permit. Training requirements have been revised to provide for training through the Iowa law enforcement academy and the NRA.

Rep. Frevert asked if county sheriff discretion in the issuing of permits results in inconsistencies; Mr. Knowles confirmed that there are certain minimum standards, but also inconsistencies.

Mr. Treinen commented that his client is concerned with the applicability of the rules to edged weapons and about local sheriff discretion. Ms. Cameron commented that the department has been responsive to the association and expressed hope that the dialogue will continue. Ms. Cameron indicated that the provision for sheriff discretion is essential to the association.

ARC 5857B Amendments to ch 4 and new ch 95 pertain to disposition of seized and forfeited weapons and ammunition. This rule making includes provisions that pertain to explosives and weapons other than firearms.

ARC 5902B No questions on ch 41 concerning payment of small claims to employees.

ARC 5895B No questions on amendments pertaining to liquefied petroleum gas. Mr. Coveyou indicated that the Iowa Propane Gas Association and the department disagree on the use of propane-fueled grills on balconies and noted that the department will give further consideration to this matter and, if necessary, proceed with an emergency rule making.

VOLUNTEER SERVICE COMMISSION Kristin Honz represented the commission.

ARC 5883B No questions on proposed ch 7, retired and senior volunteer program.

ARC 5882B No questions on proposed ch 8, Iowa youth mentoring program certification.

ENVIRONMENTAL PROTECTION COMMISSION Jim McGraw, Wendy Rains, Lori Mcdaniel, and Patti Cale-Finnegan represented the commission.

ARC 5897B No questions on proposed ch 7 regarding contested cases.

ARC 5899B No questions on 22.1(2)“nn,” permit exception for mobile agricultural and construction internal combustion engines. Mr. McGraw noted that an additional exemption for emissions from over-the-road trucks was requested, and that request will be considered in a subsequent rule making.

ARC 5900B No questions on amendments to ch 22 concerning regional haze. Ms. Rains explained that these standards are geared to visibility, rather than public health.

ARC 5898B Proposed 61.3(3) pertains to criteria for chemical constituents. Ms. Mcdaniel reported that the standards for certain metals are more stringent and that some facilities may need to upgrade their processes. Potentially affected facilities have been notified by letter of proposed amendments and the public hearings.

ARC 5901B Proposed amendments to ch 93 implement the nonpoint source pollution control set-aside program to assist in replacement of existing open feedlots with confinement structures. Ms. Cale-Finnegan explained the matching funds scale and loan rates and project approval options.

NATURAL RESOURCE COMMISSION Ross Harrison and Willie Suchy represented the commission.

ARC 5873B Proposed amendments to ch 108 pertain to seasons for bobcats, beavers, and otters. Mr. Suchy reported that although some negative comments were received regarding trapping of bobcats, the commission does not believe that these amendments will adversely affect bobcat populations.

ARC 5872B No action on proposed ch 116, help us stop hunger (HUSH) deer donation program, which provided 1.1 million meals to Iowans last year. The program is funded through the addition of \$1 to the cost of the deer transportation tag. Mr. Harrison reported support from the meat processors association. Sen. Seymour asked about involvement of the department of corrections and was advised that the correctional institution at Rockwell City pays a meat processor \$25 to remove the head, hooves and hide and then inmates are trained to butcher the deer.

Committee business Sen Seymour moved, and Rep. Frevert seconded, approval of the minutes of the May 2007 meeting; the motion carried. The next meeting was scheduled for the statutory date: Tuesday, July 10, 2007, and Wednesday, July 11, 2007, if necessary.

EDUCATION DEPARTMENT Carol Greta represented the department.

- ARC 5869B No questions on proposed corrective amendment to open enrollment provisions.
- ARC 5870B No questions on amendments to ch 34 concerning funding for children residing in state institutions or mental health institutes.
- ARC 5871B No action on proposed amendments to ch 56 concerning Iowa vocational rehabilitation services. Ms. Greta agreed to find out about eligibility of veterans for vocational rehabilitation services and to report back to the committee about measures implemented that account for the reduction in the waiting list for such services.

EDUCATIONAL EXAMINERS BOARD George Maurer represented the board. Other interested parties included Carol Greta of the department of education, Barb Allen of the School Nurses Association, Linda Goeldner of the Iowa Nurses Association, Chris Scase of the attorney general's office, and school nurses Kathy Beckman, Linda Manders, and Lorie Otto.

- Special review The committee reviewed an emergency rule adopted by the board to provide that a school nurse applying for a statement of professional recognition (SPR) must be licensed by the Iowa board of nursing as a registered nurse and must have a baccalaureate degree in nursing. Senate File 277 included school nurses who have a baccalaureate degree and an SPR in the teacher quality funding. Mr. Maurer advised the committee that if the board had not adopted the rule to reflect the new legislation, the board would have had to process SPR applications and accept the \$137 fee from every applicant, regardless of whether the applicant graduated from a two-year, three-year, or four-year nursing program; but the board could issue an SPR only to those with a four-year degree.

Ms. Greta confirmed that the department concurs with the board's interpretation of SF 277 and commended the board for adoption of the emergency rule. Ms. Scase clarified that prior to this legislation the board had issued only a couple of SPRs to school nurses, and those nurses had four-year degrees. Rep. Wise stated that the department and the board have accurately interpreted the intent of the legislation. Rep. Frevert regretted that there was no grandfathering provision in the legislation that would permit RNs to apply for the SPR and continue their education in order to become eligible for the teacher quality funding. Rep. Upmeyer noted that many nursing programs do not offer a four-year degree, and that school nurse duties and job descriptions are the same for all RNs, regardless of their educational background. Sen. Kibbie suggested that local boards of education should find ways to increase the pay for school nurses who cannot access the teacher quality money. Rep. Jacoby asked Mr. Royce to outline options for the committee and the legislature before the next meeting.

Ms. Allen and Ms. Goeldner understood that nurses with an SPR would be eligible for inclusion in teacher quality funding, but indicated that there was some confusion about school nurses who applied for an SPR before July 1, 2007. Ms. Beckman commented that she and Ms. Otto are RNs who do not have baccalaureate degrees but have teaching licenses with endorsements in vocational education. In asking for grandfathering, Ms. Manders emphasized that all RNs are doing the same job and lamented that the legislation does not apply to all school nurses as a group.

Sen. Connolly thanked all interested parties who came to the meeting to express comments.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg and Jim Overland represented the department. Robert Schleuter represented the provider services unit of IME. Other interested parties included Linda Hinton of the Iowa Association of Counties.

- ARC 5904B No questions on proposed amendments to ch 65 concerning eligibility for the food assistance program.
- ARC 5853B No questions on amendments regarding Medicaid eligibility.
- ARC 5874B No action on amendments to eliminate mandatory interviews for Medicaid programs; interviews may be held if the applicant or the department worker requests one.
- ARC 5906B No questions on proposed amendments to eliminate references to RTS and ARO, which have been replaced by remedial services and home- and community-based habilitation services.
- ARC 5911B No action on proposed amendments regarding Medicaid payment for routine physical examinations.
- ARC 5875B No questions on proposed amendments to remove references to family planning services and adult services from chs 130, 150, 153, 173, and 176.
- ARC 5879B No action on amendments to ch 153 to clarify county of residence for the state payment program.
- ARC 5854B No action on amendments to ch 170 to revise the fee schedule for child care services. Ms. Freudenberg noted that the department is in the process of considering a different methodology for the fee schedule as suggested by a commenter.

Human Services Department (continued)

Demonstration Mr. Schleuter demonstrated the Web portal for eligibility verification of the annual Medicaid card.

Special review of emergency filings: No action on the emergency filings in regard to county reporting of mental health data; citizenship documentation; personal needs allowance; and service rate increases. Ms. Hinton commented that the reporting of service authorizations is time-consuming and that there may be a more efficient way for counties to share that information. Ms. Freudenberg agreed to provide information to the committee about the number of persons in ICFMRs with income below \$50 for whom income is not brought up to \$50 as it is for nursing home residents.

Adjourned The meeting was adjourned at 3:15 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair Michael Connolly

Vice Chair Philip Wise